

HOUSE BILL 3851
By Gresham

AN ACT to amend Tennessee Code Annotated, Section 55-8-152 and Section 55-8-153, relative to speed limits and speed zones.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-8-152, is amended by deleting subsection (d) in its entirety and by substituting instead the following language as a new subdivision:

(d) Any person who drives at a speed exceeding a posted school zone speed established under the authority of §55-8-153, during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving the school, shall be prima facie guilty of reckless driving.

SECTION 2. Tennessee Code Annotated, Section 55-8-152, is further amended by deleting subsection (f) in its entirety and inserting the following language as a new subsection:

(f)

(1) A violation of this section is a Class C misdemeanor.

(2) Notwithstanding any provision of the law to the contrary, a violation of the reduced highway construction zone speed limits set by the department of transportation, pursuant to §55-8-153, is a Class B misdemeanor, punishable by fine only, when employees of the department or construction workers are present. The department, or its agents, are hereby directed to indicate the presence of workers or department employees with signs with flashing amber

lights; provided, that this penalty is applicable in highway construction zones only to those speeding violations which have been detected by radar, infrared or similar detection devices. The amount of the fine imposed for violations that occur in work zones where the speed limits have been reduced by the department and when employees of the department or construction workers are present shall not be less than two hundred fifty dollars (\$250). Notwithstanding any provision of this subsection to the contrary, no provision of this subsection, nor of section §55-8-153, shall be construed to prevent the entry of a suspended sentence upon the conviction of a defendant for the first violation of the enhanced penalties provided for when the violation occurs within a construction zone, when employees of the department of transportation or construction workers are present, and when the trier of fact determines that extraordinary circumstances led to the violation.

SECTION 3. Tennessee Code Annotated, Section 55-8-152, is further amended by deleting subsection (g) in its entirety.

SECTION 4. Tennessee Code Annotated, Section 55-8-153, is amended by deleting subsection (a) in its entirety and by substituting instead the following language as a new subsection:

(a)

(1) The department of transportation is empowered to establish speed zones with speed limits lower than those prescribed in §55-8-152 in business, urban or residential districts, school and construction zones, or at any congested area, dangerous intersection or whenever and wherever the department shall determine, upon the basis of an engineering and traffic investigation, that the public safety requires a lower speed limit.

(2) Signs giving notice of speed zones shall be erected by the department at such places or put on the highway where the prescribed speed limits are effective.

(3) In designated construction zones, the department of transportation, or its agents, are hereby directed to indicate the presence of workers or department employees with signs with flashing amber lights.

SECTION 5. Tennessee Code Annotated, Section 55-8-153, is further amended by deleting subsection (b) in its entirety and by substituting instead the following language as a new subsection:

(b)

(1) The legislative bodies of towns and cities shall possess the power to prescribe lower speed limits within certain areas or zones, or on designated highways, avenues, or streets, in their respective jurisdictions, when, upon the basis of an engineering and traffic investigation, it is shown that the public safety requires a lower speed limit.

(2) Signs giving notice of speed zones and the speed limits in those zones shall be erected by the towns and counties at such places or put on the highway where the prescribed speed limits are effective.

SECTION 6. Tennessee Code Annotated, Section 55-8-153, is further amended by deleting subsection (c) in its entirety and by substituting instead the following language as a new subsection:

(c)

(1) The legislative body of any county, except the legislative bodies of any counties having a commission form of government, has the power to prescribe lower speed limits within certain areas or zones on any road being

maintained by such county when, upon the basis of an engineering and traffic investigation, it is shown that the public safety requires a lower speed limit. In those counties having a commission form of government, the board of commissioners has the power prescribed in this section.

(2) Signs giving notice of speed zones and the speed limits in those zones shall be erected by the counties at such places or put on the road where the prescribed speed limits are effective.

SECTION 7. Tennessee Code Annotated, Section 55-8-153, is further amended by deleting subsection (d) in its entirety and by substituting instead the following language as a new subsection:

(d)

(1) School speed zones shall include streets, roads and highways adjacent to and within one-fourth (1/4) mile of school grounds that are devoted primarily to normal school day activity.

(2) In school speed zones where the department of transportation does not establish special speed limits as provided for in subdivision (a)(1), or in any county or municipality where the local legislative body does not establish special speed limits as provided for in subsections (b) and (c), any person who drives at a speed exceeding fifteen miles per hour (15 mph) when operating a motor vehicle within a school zone during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of the school or a period of ninety (90) minutes after the closing hour of the school, while children are actually going to or leaving the school, shall be prima facie guilty of reckless driving.

(3) The department of transportation has the authority to establish special school zone speed limits at school entrances and exits to and from controlled access highways. Such speed limits shall be enacted based on an engineering investigation, shall not be less than fifteen miles per hour (15 mph) and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation and only while children are actually present.

(4) Counties and municipalities are authorized to establish special school zone speed limits upon any highway or public road of this state within their jurisdiction, except at school entrances and exits to and from controlled access highways on the system of state highways. Such speed limits shall be enacted based on an engineering investigation, shall not be less than fifteen miles per hour (15 mph) and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation and only while children are actually present.

SECTION 8. Tennessee Code Annotated, Section 55-8-153, is further amended by deleting subsection (e) in its entirety and by substituting instead the following as a new subsection:

(e)

(1) Engineering and traffic investigations used to establish special speed zone locations and speed limits shall be made in accordance with established traffic engineering practices. Such investigations shall be documented and documentation shall be maintained by the jurisdiction performing or sponsoring the investigation.

(2) All signs, signals and other forms of public notification of speed limits, road hazards and other traffic conditions shall comply with the national Manual on Uniform Traffic Control Devices (MUTCD).

(3) Except in school zones as prescribed in subsection (d), construction zones as prescribed in subdivision (a)(3), and other special hazard zones as identified on the basis of a documented engineering and traffic investigation, when a speed limit is to be posted, it shall be within five miles per hour (5 mph) of the 85th-percentile speed of free-flowing traffic as determined by an engineering and traffic investigation, in compliance with the national MUTCD.

SECTION 9. This act shall take effect July 1, 2006, the public welfare requiring it.